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<b>TRANSMITTAL FORM</b> (to be used for all correspondence after initial filing)	Application Number	10/662,547
	Filing Date	09/15/2003
	First Named Inventor	Simon Anne De Molina
	Art Unit	3683
	Examiner Name	Christopher P. Schwartz
Total Number of Pages in This Submission	Attorney Docket Number	1316N-001670

**ENCLOSURES (check all that apply)**

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): <b>Return Receipt Postcard</b>		
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**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm or Individual name	Harness, Dickey & Pierce, P.L.C.	Attorney Name	Michael J. Schmidt	Reg. No.	34,007
Signature					
Date	May 11, 2006				

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Confirmation No. 2269

Application Number: 10/662,547  
Filing Date: September 15, 2003  
Appellant(s): Simon Anne de Molina

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Michael J. Schmidt

For Appellant

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**APPELLANT'S REPLY BRIEF**

## **APPELLANT'S REPLY BRIEF**

This is in response to the Examiner's Answer mailed on March 29, 2006.

### **RESPONSE TO EXAMINER'S ANSWER**

Regarding Claims 7-11, the Examiner's answer is essentially repetition of the Examiner's arguments presented in the Final Office Action. As discussed in our Appeal Brief, Lee simply discloses spiral holes but Lee does not disclose the sequentially covering of the holes and the sleeve being operable to simultaneously cover all of the holes as defined by Claim 7 of the present application. The piston in Lee passes over the holes, it does not sequentially cover them.

Dressell Jr. et al. '415 in Figure 2 discloses holes 80, 82 and 84 and in Figure 10 discloses holes 134. These holes are not defined as being in a helical pattern and the Examiner states that this reference is relied upon to show it is known to use a progressive metering affect of fluid passages to control the responsiveness of a shock absorber. The problem with this reference is that it simultaneously closes all of the holes with the rotation of sleeve 76. It does not sequentially cover the holes as is defined in Claim 7.

The Examiner concludes his discussion by stating that as taught generally by Lee or Dressell Jr. et al. '415, it would be obvious to have a plurality of holes progressively covered by sleeve 78 of De Molina. The Examiner continues with his discussion of "progressively" closing of the ports throughout his response to Applicant's Appeal Brief arguments. The problem with this logic is that the Examiner conveniently left out the limitation "by sequentially covering said plurality of holes". Since neither Lee or Dressell, Jr. et al. '415 disclose, teach or suggest this "sequential covering of the plurality of holes",

it is believed that the Examiner was unable to interpret the references to cover this concept.

The Examiner further states that DeMolina could be made capable of covering all of the holes but the Examiner fails to provide any justification for this statement. The Examiner does state that it is notoriously well known in the art to provide dampers, as shown by De Molina, with progressively covered holes. De Molina has a single hole that is progressively closed but again, the Examiner has avoided the limitation "by sequentially covering said plurality of holes".

Thus, Applicant believes Claim 7 as well as Claims 8-11 patentably distinguishes over the art of record. Reversal of the Examiner's rejection and allowance of these claims is respectfully requested.

Regarding Claims 12-15 and 18, the Examiner has again repeated his arguments presented in the Final Office Action. As presented in Applicant's Appeal Brief, the spiral groove 132 of Dressell Jr. et al. '415 relied upon by the Examiner does not have "a depth of said groove decreasing from said hole to said terminal end" as is defined in Claim 12. In addition, the groove is not "progressively covered from said hole to said terminal end" as is also defined by Claim 12. The uniform cross-sectional sized groove 132 is progressively covered over its entire length and not progressively from the hole to the terminal end as is defined in Claim 12.

Schupner '122 does not disclose a helical groove with a varying depth, and Schupner does not disclose "a hole located at a base of a groove" as is defined by Claim 12. In Figures 1-4, Schupner discloses a circumferential slot which is variable in depth but there is not a hole located in its base. In Figures 5 and 6 of Schupner, helical grooves 70-

73 are disclosed but these helical grooves are uniform in cross-sectional size throughout their length and there is not a hole located in their base. Thus, neither Dressell et al. "415 or Schupner '122 provide a general teaching showing helical grooves with varying depth with holes that open into them as stated by the Examiner. As discussed above, it is believed that the Examiner has clearly misinterpreted the references.

Thus, adding the constant depth spiral groove of Dressell et al. or Schuper to De Molina will not progressively close the third flow path since the cross-section of the flow path will not change as it is progressively covered. The Examiner has taken the position that both systems progressively close a flow path without giving consideration to the structure that operates to progressively close the flow path.

Thus, Applicant believes Claim 12 as well as dependent Claims 13-15 and 18 patentably distinguish over the art of record. Reversal of the Examiner's rejection and allowance of these claims is respectfully requested.

Respectfully submitted,

Dated: May 11, 2006

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